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1 SUPERIOR COURT OF NEW JERSEY
2 LAW DIVISION: OCEAN COUNTY
3 DOCKET NO. OCN-L-3075-89

4 JAMES ABBATEMARCO; ANTHONY
5 ABBATEMARCO and LEE ANN
6 ABBATEMARCO, his wife; ALAN
7 ACKERSON and SUSAN ACKERSON, DEPOSITION OF:
8 his wife; KENNETH ADAMS and NICHOLAS FERNICOLA
9 JOHN ADAMS, his wife RALPH
10 AINSWORTH and PATRICIA AINSWORTH,
11 his wife; STACY MICHELE AINSWORTH,
12 an infant by her Guardian ad Litem
13 RALPH AINSWORTH; JAMES DOES; CINDY
14 DOES; BILLY DOES, infants by their
15 Guardian ad Litem JAMES DOES;
16 JENNIFER DOES, infants by their
17 Guardian ad Litem JAMES DOES,
18 Plaintiffs,
19 vs.
20 THOMAS NICOL COMPANY, INC.;
21 THOMAS NICOL ASPHALT COMPANY,
22 INC.; THOMAS NICOL; SOUTH
23 BRUNSWICK ASPHALT, a limited
24 partnership; EUGENE JOHNSON,
25 "JANE" JOHNSON; "A" JOHNSON; "B"
JOHNSON; "C" JOHNSON; "D"
JOHNSON; JOHN DOES; RICHARD DOES;
STEVEN DOES; FRANK DOES; GEORGE
DOES; JANE DOES,
Defendants.

Friday, July 12, 1993

TRANSCRIPT in the above matter taken at
the OCEAN COUNTY COURTHOUSE, 181 Washington
Street, Toms River, New Jersey, commencing at
10:00 a.m.

CERTIFIED SHORTHAND REPORTING SERVICES
Arranged Through
MASTROIANNI & FORMAROLI, INC.
104 White Horse Pike
Haddon Heights, New Jersey 08035

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1 APPEARANCES:


2 WILLIAMS & CUKER, ESQUIRES
3 BY: Mark R. Cuker, Esquire
Attorneys for the Plaintiffs

4 ARCHER & GREINER, ESQUIRES
5 BY: Ellis I. Medoway, Esquire
Attorneys for the Defendants-Thomas Nicol
6 Company; Thomas Nicol Asphalt Company

7 MATTHEWS, WHITE, GIACUMBO &
8 FISCHER, ESQUIRES
9 BY: William M. Fischer, Esquire
Attorneys for the Defendant-South Brunswick
10 Asphalt

11 DRINKER, BIDDLE & REATH, ESQUIRES
12 BY: Vincent E. Gentile, Esquire
Attorneys for the Defendant-Union Carbide

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1 (It is agreed by and between counsel that
2 the reading and signing of the deposition be
3 waived and that all objections, except as to the
4 form of the question, be reserved until the time
5 of trial.)

6 (NICHOLAS FERNICOLA, 135 Woodchuck Parkway,
7 Whiting, New Jersey, having been duly sworn, was
8 examined and testified as follows:)

9 (Examination of NICHOLAS FERNICOLA by MR. CUKER:)

10 Q. Mr. Fernicola, my name is Mark Cuker. I
11 represent the plaintiffs in this case. I am
12 going to be asking you some questions about your
13 activities in the early 1970s.

14 If at any time you don't understand any of
15 my questions, will you please let me know and I
16 will rephrase the question. You must answer each
17 question out loud because the court reporter
18 can't take down a nod or shake of the head or
19 uh-hum.

20 Do you understand that?

21 A. Yes.

22 Q. Do you understand you're a party to this
23 lawsuit, sir?

24 A. Not really but I guess so. I don't know
25 why.

1 Q. Have you retained any attorney to represent
2 you in this case?
3 A. No.
4 Q. At the present time do you intend to retain
5 an attorney?
6 A. I don't think so. I am not guilty of
7 nothing. I don't feel I need an attorney.
8 Q. Okay. Sir, where do you currently live?
9 A. 135 Woodchuck Parkway, Whiting, New Jersey.
10 MR. MEDOWAY: What was that again?
11 THE WITNESS: Woodchuck Parkway.
12 MR. CUKER: As in how much wood does a
13 woodchuck chuck.
14 Q. How long have you lived there, sir?
15 A. Three years.
16 Q. How long have you lived in Ocean County?
17 A. Since 1966, give or take a few years. I
18 lived in Florida for three. I lived in Idaho for
19 one.
20 Q. When did you live in Florida?
21 A. '84 to '87.
22 Q. Okay. When did you live in Idaho?
23 A. '69 and '70.
24 Q. Okay. Between '66 and '69, where did you
25 live in Ocean County?

1 don't know the address.
2 Q. The house they sold, was that also in Toms
3 River?
4 A. Yes.
5 Q. What's your daughter's name?
6 A. Michelle.
7 Q. Where was the house that they sold?
8 A. Off Chestnut Street in Toms River.
9 Q. Okay. Do you know what street it was on?
10 A. Formcola.
11 Q. F-O-R-M-C-O-L-A?
12 A. Yes.
13 Q. Was there an I between?
14 A. I don't know. Formcola Drive, Place or
15 whatever.
16 Q. Okay. So they lived on Formcola Drive near
17 Chestnut Street in Toms River?
18 A. Yes.
19 Q. Okay. How long did they live there?
20 A. A dozen years, ten years.
21 Q. Okay. Now, you lived in Summit East from
22 '66 to about '69. Then you went to?
23 A. Idaho.
24 Q. Idaho for a year. And when you returned
25 from Idaho, where did you live?

1 A. That's a good question. Summit East. I
2 can't remember the address.
3 Q. Is Summit East a post office?
4 A. No, Summit East off of 37.
5 Q. Is that a development?
6 A. Yeah. I can't remember the address.
7 Q. Okay. And who did you live there with?
8 A. My X-wife.
9 Q. What was her name?
10 A. LaVonne.
11 Q. L-A-V-O-N?
12 A. L-A capital V-O-N-N-E.
13 Q. That's her first name?
14 A. Yes.
15 Q. And when did you get divorced from her?
16 A. 1972.
17 Q. Okay. Did she retake her maiden name after
18 your divorce?
19 A. No.
20 Q. Do you know where she is now?
21 A. Yeah, she's living with my daughter.
22 Q. Where?
23 A. I don't know the address. Toms River.
24 They just sold the house and they moved. I don't
25 know the address. I know where it's at but I

1 A. Toms River, 638 Parkside. I remember that
2 address because my son bought the house since
3 then.
4 Q. Okay. How long did you live at 638
5 Parkside?
6 A. Probably ten years.
7 Q. Now, did your son Nicholas buy that house?
8 A. Yes.
9 Q. Okay. And then where did you live, I
10 guess, between, after, between the time you left
11 Parkside and the time you went to Florida?
12 A. Garfield.
13 Q. Garfield?
14 A. Yeah, I don't know the address, two blocks
15 from that house.
16 Q. Two blocks from the Parkside house?
17 A. Yeah.
18 Q. Okay. Did you ever remarry?
19 A. No.
20 Q. How many children did you have with
21 LaVonne, Michelle and Nicholas, and is there
22 anyone else?
23 A. I have three.
24 Q. And who is the third?
25 A. Sandy.

1 Q. Does she still live in Ocean County?
 2 A. Yes.
 3 Q. Where does she live?
 4 A. I don't know her address neither. Meadow
 5 Park section off of Brookside Drive.
 6 Q. How old are you, sir?
 7 A. Sixty-two.
 8 Q. Did you ever work in your father's
 9 business?
 10 A. No.
 11 Q. Okay. Can you tell me what -- first of
 12 all, briefly, what kind of business was your
 13 father in?
 14 A. Barrels and drums.
 15 Q. In what location?
 16 A. Newark.
 17 Q. And you never did any work there at all,
 18 not even summer jobs, nothing?
 19 A. When I was a young kid in high school, I
 20 worked in the summer there. Other than that,
 21 when I got out of the Service in '56, I never
 22 worked for him since then.
 23 Q. Did he have any relationship with Union
 24 Carbide, any business relationship?
 25 A. No.

1 Q. What was the name of his business?
 2 A. Nick Fernicola Barrels & Drums.
 3 Q. He was also a Nick?
 4 A. Yes.
 5 Q. But none of you was a junior?
 6 A. No.
 7 Q. Okay. Can you tell me what your job
 8 experience was between the time you left high
 9 school and 1969?
 10 A. Auto mechanic.
 11 Q. Where did you work as an auto mechanic?
 12 A. Oh, all over, really. I had a used car lot
 13 I opened up in '56, done my own repairs. I had
 14 an auto salvage yard on Wilson Avenue in Newark
 15 for a couple of years.
 16 Q. In Newark?
 17 A. In Newark.
 18 Q. Did you live in Newark up until 1966?
 19 A. Yes, except my four years in the Service.
 20 Q. Okay. All right. Did you, were you
 21 involved in any business in the Newark area other
 22 than auto mechanic, used car business, that type
 23 of business?
 24 A. No.
 25 Q. Why did you move to Ocean County?

1 A. I bought a gas station.
 2 Q. Where was the gas station?
 3 A. Cedar Grove Road and Brookside Drive.
 4 Q. For my convenience, can you indicate, I
 5 brought here an Ocean County map, where Cedar
 6 Grove and Brookside Drive is?
 7 MR. CUKER: Off the record.
 8 (Off-the-record discussion)
 9 A. Where are we?
 10 Q. Here is Berkeley Township. Dover
 11 Township. Here is Toms River. I see it.
 12 A. Right here.
 13 MR. MEDOWAY: Where is this now?
 14 MR. CUKER: Cedar Grove. Here's where
 15 the gas station was.
 16 THE WITNESS: Right on the corner of
 17 Cedar Grove and Brookside.
 18 MR. GENTILE: Is that in Toms River?
 19 THE WITNESS: Right in the middle of
 20 Toms River probably.
 21 MR. MEDOWAY: When did you have that
 22 there, the gas station?
 23 THE WITNESS: I bought it in '66.
 24 MR. CUKER: For reference purposes,
 25 that is located in Block N 9 on this particular

1 Ocean County map.
 2 Q. Okay. Did you actually own the gas
 3 station?
 4 A. Well, you leased it off the company.
 5 Q. Which company was it?
 6 A. I was with Citgo.
 7 Q. Were you ever with Sinclair which was the
 8 predecessor of Citgo?
 9 A. Yeah, I had a Sinclair on Fischer Boulevard
 10 in Toms River after that for not long.
 11 Q. How long did you have the gas station at
 12 Cedar Grove and Brookside?
 13 A. Probably three years.
 14 Q. Okay. And what happened after the three
 15 years?
 16 A. I bought another station on Fischer
 17 Boulevard.
 18 Q. Did you give up the station on --
 19 A. Yeah.
 20 Q. Okay.
 21 A. Then I moved to Idaho right after that.
 22 Q. Okay. Did you retain ownership of the
 23 station on Fischer Boulevard when you moved to --
 24 A. No, just subleased that.
 25 Q. Okay. Can you show me where the one on

1 Fischer was?
 2 A. Fischer is closer to the water from there.
 3 Q. I see Fischer here.
 4 A. Right in the middle of Fischer.
 5 Q. All right.
 6 A. There is a little side street there.
 7 MR. CUKER: Fischer Boulevard is
 8 mainly in Block O 8 of this particular Ocean
 9 County map.
 10 Q. Okay. Why did you move to Idaho?
 11 A. I was living with a girl and she was from
 12 there and she wanted to go back there. So I went
 13 back there for a little over a year with her.
 14 Q. Okay.
 15 A. And I came back.
 16 Q. Where you separated from your wife at that
 17 time?
 18 A. Yes.
 19 Q. Okay. When you were in the, owned the gas
 20 station at Cedar Grove, did you own any trucks?
 21 A. No.
 22 Q. How about the gas station at Fischer
 23 Boulevard?
 24 A. No..
 25 Q. Okay. When you came back from Toms River,

1 excuse me, came back from Idaho, okay, you took
 2 up residence at Parkside?
 3 A. No, I went back with my X-wife for a few
 4 months.
 5 Q. Okay.
 6 A. Then moved out.
 7 Q. Where were you living with your X-wife?
 8 A. In -- I can't think of the street.
 9 Q. How far away was it from Parkside?
 10 A. Oh, up on 37 in Toms River. It will come
 11 to me.
 12 Q. When you were living on Parkside, were you
 13 living with any of your children?
 14 A. No.
 15 Q. When you were living with your X-wife in
 16 the undetermined address, were you living with
 17 your children?
 18 A. Yes.
 19 Q. And about how many months was it?
 20 A. When I come back from Idaho, we lasted
 21 about another six, eight months, maybe, then
 22 split up again.
 23 Q. Okay. When you came back from Idaho, what
 24 did you do for a living?
 25 A. Went on construction, worked in Trenton.

1 Q. Were you working as an employee or your own
 2 business?
 3 A. No, an employee running a machine.
 4 Q. Which company did you work for?
 5 A. It will come to me. I can't think of it.
 6 My mind is a blank.
 7 Q. What type of equipment were you operating?
 8 A. Front end loader.
 9 Q. And on what kind of jobs?
 10 A. Pipes, street pipe we were putting in.
 11 Q. Speed pipe?
 12 A. Street pipe.
 13 Q. Sorry. Was all the work in Trenton?
 14 A. Yeah, I worked in Trenton and Oceanport for
 15 them.
 16 Q. Was all the work for this same company?
 17 A. Same company, yes. I worked before --
 18 before I went to Idaho, I worked in Trenton, I
 19 was doing powder monkey at the time blasting.
 20 When I came back, I worked for the same company
 21 in Oceanport, they were in Oceanport.
 22 Q. Did you do any work for this company while
 23 you were still owner of this gas station at
 24 Fischer Boulevard?
 25 A. No.

1 Q. Did you require any specific type of
 2 license to operate a front end loader?
 3 A. No.
 4 Q. Okay. How long were you working in
 5 construction for this company?
 6 A. Probably three years on and off, four years
 7 maybe.
 8 Q. Okay. And then what did you do after that?
 9 A. I think that's when I got Union Carbide and
 10 was taking the drums out.
 11 Q. Okay. How did that come about?
 12 A. Somebody told me that. First of all, I met
 13 guys that worked, that managed the dumps and we
 14 got to talk and they said we could dump there.
 15 Somebody told me about Union Carbide had waste
 16 drums to take out. And I went up, I approached
 17 them, made, I forgot how much a drum back then,
 18 and I already had it arranged with Toms River
 19 Dumps to dump there. And Union Carbide came with
 20 me for the first two, three loads and that was
 21 it. I didn't even own a truck then.
 22 MR. CUKER: This might be another good
 23 juncture to try and stop and see if we can get
 24 the judge.
 25 MR. MEDOWAY: We are off the record.

1 (Off-the-record discussion)
 2 MR. MEDOWAY: Can you read back his
 3 last answer?
 4 (Designated answer is read)
 5 Q. Who were the guys you met who managed these
 6 dumps?
 7 A. A guy named Sharky. A guy named Columbo.
 8 Q. Columbo?
 9 A. I think.
 10 Q. How did you meet them?
 11 A. A bar.
 12 Q. The Rustic Acres?
 13 A. Yes.
 14 Q. And which dumps were they involved with?
 15 A. Church Road, Toms River.
 16 Q. Church Road. All right. Were they both
 17 involved with the same dump?
 18 A. Yes.
 19 Q. Okay. What was the name of that dump?
 20 A. It was Toms River Dumps as far as I know.
 21 Q. Did they own the dump?
 22 A. It was a Township dump and you --
 23 Q. Was it also known as the Dover Township
 24 Landfill?
 25 A. I don't know. It was on Church Road in

1 was still doing the work in the plant. And then
 2 they called me and told me to come and start
 3 taking drums out. And I rented a couple of
 4 trucks because we had to take them out and that
 5 was about it. It lasted about another two
 6 months.
 7 Q. During the time they were on strike, did
 8 you pick up any drums there?
 9 A. No, none.
 10 Q. Did you pick up any drums anyplace else?
 11 A. No, never.
 12 Q. Did you ever have any customers, drum
 13 customers other than Union Carbide?
 14 A. No.
 15 Q. Okay. Can you describe the Bound Brook
 16 plant to me?
 17 A. I don't know.
 18 Q. Was it more than one building?
 19 A. Oh, yeah.
 20 Q. More than five buildings?
 21 A. Yeah.
 22 Q. How many different places did you go there
 23 to pick up drums? Were the drums kept in one
 24 place?
 25 A. Usually one or two places we went.

1 Toms River. As far as I know, it was the Toms
 2 River Dumps.
 3 Q. Okay. And was it one of them who told you
 4 about Union Carbide or somebody else?
 5 A. No someone else.
 6 Q. Who was that?
 7 A. I don't remember now. I just heard about
 8 it from somebody.
 9 Q. Okay. Who did you approach at Union
 10 Carbide?
 11 A. I don't know.
 12 Q. Where --
 13 A. It's 30 years ago.
 14 Q. Where did you approach them?
 15 A. In Bound Brook. I drove up there and met
 16 with them. Then I went out and borrowed money to
 17 buy a truck.
 18 Q. You bought one truck?
 19 A. Yes. Started taking drums out and then
 20 they went on strike. They were on strike for
 21 probably, I remember almost three months.
 22 Q. The whole plant?
 23 A. Yes.
 24 Q. Okay.
 25 A. So we were at a standstill. And management

1 Q. At the time you had one truck, what kind of
 2 truck was it?
 3 A. Well, it was a Ford. We could put about 30
 4 drums on it.
 5 Q. Okay. You said you went out and borrowed
 6 the money to buy a truck?
 7 A. Yes.
 8 Q. Was the truck titled in your name
 9 personally?
 10 A. Yes.
 11 Q. Did you form a corporation at any point?
 12 A. No.
 13 Q. Okay. At the time you had one truck, did
 14 you have any employees working with you?
 15 A. No, none at all.
 16 Q. Okay. Did you consult your brother in any
 17 way about taking this business venture on?
 18 A. No.
 19 Q. Did you know whether your brother had
 20 anything to do with any kind of drum business at
 21 the time you developed this relationship?
 22 A. Yeah, he worked with my father on and off
 23 through this life, he was always with my father.
 24 Q. Did you consult your father at all about
 25 this?

1 A. No.
2 Q. All right. Now, during the time you had
3 the one truck, where did you take the drums to?
4 A. Toms River Dumps.
5 Q. Did you take all the drums to Toms River
6 Dumps?
7 A. All of them.
8 Q. The drums you picked up, did anybody help
9 you load the drums onto the truck?
10 A. Yeah, forklift loaded it.
11 Q. How about getting the drums off the truck?
12 A. Rolled them off.
13 Q. Okay. Did the drums have any contents in
14 them?
15 A. Yeah, I would say 80 percent of them were
16 tar drums, full of tar.
17 Q. The other 20 percent?
18 A. Oil, you know.
19 Q. Were any of the drums completely empty?
20 A. Yes, some were empty.
21 Q. About what percent of them were completely
22 empty?
23 A. 10 percent, maybe, 5 percent, I don't
24 remember.
25 Q. How long did it take you to go from Bound

1 Q. Was there more than one dump on Church
2 Road?
3 A. No, not that I know of.
4 Q. Okay. And what's Sharky's first name?
5 A. I don't know.
6 Q. How about Columbo?
7 A. I don't know.
8 Q. Do you know if they're still alive?
9 A. I think Sharky is dead. I don't know about
10 the other one. And it was Thomas, he was the
11 head of sanitation.
12 Q. Thomas was the head of sanitation for who?
13 A. Toms River.
14 Q. For Dover Township?
15 A. Toms River.
16 Q. Was like a public official?
17 A. Yeah.
18 Q. Thomas was the last name?
19 A. Yes.
20 Q. Do you recall his first name?
21 A. No.
22 Q. What were your dealings with him?
23 A. Well, he kept raising me on the price to
24 come. They said Thomas wants more money, Thomas
25 wants more money. We met. I was giving him \$10

1 Brook to the Toms River Dump?
2 A. Probably three hours round trip.
3 Q. Okay. How many trips would you make a day?
4 A. Two.
5 Q. How many days a week?
6 A. Five.
7 Q. Okay. How were you paid?
8 A. By check.
9 Q. Okay. Did they pay you by the drum?
10 A. Yes.
11 Q. Did you, when you dumped the drums, you
12 just leave the drums and content in Toms River
13 Dump?
14 A. Yes.
15 Q. You didn't try to claim the drums in any
16 way?
17 A. It was tar.
18 Q. How about the drums that were not tar?
19 A. Very few of them. If it was a little
20 stuff, we move, dumped it out and saved the
21 liquid.
22 Q. Dumped it out where?
23 A. At the dumps.
24 Q. Where?
25 A. Toms River Dumps.

1 a load to begin with. Ten went up to 20, then up
2 to 50, then they wanted \$200 a load.
3 Q. Did you have to pay the Township to dump?
4 A. I paid the guys in the dump like anybody.
5 Q. Did they have to pay the Township?
6 A. I don't think so.
7 Q. Oh. I see. So when you're saying Thomas
8 wants money, they were paying Thomas some money?
9 A. Yeah.
10 Q. And this may not necessarily have been an
11 official fee for dumping, it may have been a
12 bribe of some sort?
13 A. Could be.
14 Q. How much was Union Carbide paying you per
15 load?
16 A. I don't remember. I think I was getting
17 around six or \$7 a drum, if I remember right.
18 Q. Did you raise the price to Union Carbide --
19 A. No, because they went on strike.
20 Q. Okay.
21 A. When we went back, that's when they raised
22 me in the dumps. Then I rented a piece of
23 property and started storing the drums there and
24 I tried to swing my own dumps.
25 Q. Okay. So as Dover Township raised its

1 rates for dumping, Dover Landfill raised its rate
 2 for dumping, you stopped using them?
 3 A. Yes.
 4 Q. Okay. At any point did you ever raise your
 5 price to Union Carbide?
 6 A. No.
 7 Q. So it always was six or \$7 a drum, you
 8 said?
 9 A. Yeah. I don't remember what it was.
 10 Q. During the three months of the strike, what
 11 did you do for a living?
 12 A. Nothing.
 13 Q. You were completely unemployed?
 14 A. Yeah, a friend of mine had a gas station on
 15 9, I done a little mechanic work for him a couple
 16 of days waiting for them to start again.
 17 Q. How were you able to make your payments on
 18 the truck?
 19 A. I had no payments to make. I borrowed the
 20 money personal.
 21 Q. You didn't borrow it from a lending
 22 institution?
 23 A. It was a used truck. I think I paid \$1,000
 24 back then for it.
 25 Q. Who did you borrow the money from for it?

1 one trip they came down. Was it the same person?
 2 A. Yes, same person.
 3 Q. How did you find out the strike ended?
 4 A. They called me.
 5 Q. Okay. Can you remember the names of any
 6 individuals you dealt with at Union Carbide?
 7 A. Doc.
 8 Q. Doc. Can you tell me what Doc looked like?
 9 A. No.
 10 Q. What was Doc's job as best you can tell?
 11 A. He was in charge of -- he was a chemist, I
 12 think.
 13 Q. Makes sense. Okay. When they called you,
 14 was there a large backlog of drums that had built
 15 up during the strike?
 16 A. Yes. I told you I went out and rented a
 17 couple of trucks.
 18 Q. I know you said you swung your own dumps,
 19 is that the term you used?
 20 A. I had Paschon & Grunin.
 21 Q. You have to spell that for us, sir.
 22 A. Paschon & J. Grunin. We tried --
 23 Q. Who are they?
 24 A. Lawyers in Toms River. They were partners
 25 at the time.

1 A. My aunt.
 2 Q. Okay. Now, I think you said you did make
 3 some trips to the plant during the strike because
 4 management was trying to conduct operations; is
 5 that correct?
 6 (OBJECTION) MR. GENTILE: I object to that.
 7 A. They told me management was still operating
 8 the plant. We couldn't cross the picket line.
 9 Q. I see. Couldn't or wouldn't?
 10 A. Well, we couldn't. I wouldn't anyway.
 11 Q. Was it physically dangerous to cross the
 12 picket line?
 13 A. I don't know about that. But they didn't
 14 tell me to come in and take the drums. They
 15 didn't want us to cross the picket line.
 16 Q. I see. After three months, did the strike
 17 completely end?
 18 A. Yes. Two months, maybe three months, I
 19 don't remember. You could check on the records
 20 back then how long they were on strike.
 21 Q. Going back a second, do you know who it was
 22 from Union Carbide who road down with you to Toms
 23 River Dump?
 24 A. No.
 25 Q. Was it the same person? You said more than

1 Q. They were partners with each other?
 2 A. Right.
 3 Q. Were they partners with you?
 4 A. No. But they would have been if we would
 5 have --
 6 Q. Let me understand something. Did you go to
 7 these people for legal advice or did you go to
 8 them for some type of business joint venture?
 9 A. Right.
 10 Q. For a business joint venture?
 11 A. Yes.
 12 Q. Not for legal advice?
 13 A. No.
 14 Q. What type of business venture were you
 15 starting to form?
 16 A. Start our own dumps.
 17 Q. And what happened?
 18 A. Well, it was a piece of property in
 19 Berkeley Township, it was up for sale, it was
 20 right alongside the Parkway, and they put
 21 everything before the Board in Berkeley and they
 22 wanted a governing body of laws. So we hired an
 23 engineer. He came, drew everything up, the water
 24 table, the whole nine yards. And the day it was
 25 supposed to go before the Board, they opened the

1 meeting up and fired the Mayor in Berkeley for
2 another reason. It adjourned two weeks. And in
3 that two weeks, all, I don't know what you would
4 call it, everything hit the newspapers about the
5 —
6 Q. About your proposal?
7 A. No, about storing the drums on Route 9.
8 Q. Okay.
9 A. And when Berkeley found out, they didn't
10 want no part of that and that was the end of
11 that.
12 Q. Were they going to go in with you to
13 purchase this property?
14 A. Yes.
15 Q. Were they also going to go in with you on
16 the drum business with Union Carbide?
17 A. No, that had nothing to do with it. We
18 were going to be partners in the dumps.
19 Q. Okay. Is there any other — I am sorry?
20 A. It would have been probably the first legal
21 dumps in Jersey, you know.
22 Q. Probably. Was there any other place you
23 tried to swing your own dump?
24 A. No.
25 Q. All right.

1 it that?
2 THE WITNESS: Yeah. Right alongside
3 the Parkway.
4 MR. MEDOWAY: It's Candy Land.
5 THE WITNESS: It's right outside of
6 South Toms River.
7 MR. GENTILE: Double Trouble Road.
8 THE WITNESS: It's there somewhere.
9 MR. CUKER: And Double Trouble Road,
10 for the record, on the map is on Blocks M 10 and
11 11 on this map right next to Beachwood Borough.
12 Q. Can you recall who owned that land?
13 A. No.
14 Q. Okay. Did your brother have a place in
15 Beachwood, a business in Beachwood?
16 A. Not that I know of.
17 Q. Okay. Now, how did you come to make this
18 arrangement at Reich Farm?
19 A. I just went in and rented, told them I
20 wanted to store drums there and rented the
21 property in the back.
22 Q. And at that point did you make the
23 arrangements with the Reichs before making your
24 first pickup at Union Carbide after the strike
25 ended?

1 MR. MEDOWAY: So I am clear, are you
2 saying that this Berkeley Township dump that you
3 were trying to propose, this joint venture with
4 these two attorneys, it occurred or the Berkeley
5 Township Planning Board, whatever, denied that
6 application right after all this media blitz
7 about your involvement at Reich Farm?
8 THE WITNESS: Right.
9 MR. MEDOWAY: So this is sometime in
10 '71, '72?
11 THE WITNESS: Yeah.
12 MR. MEDOWAY: I wanted to make sure
13 that's in the same time frame.
14 Q. Can you show me again on this map where
15 that plot of land was located?
16 A. Where?
17 Q. The place you were trying to establish a
18 dump on.
19 A. Double Trouble Road in Berkeley Township
20 along the Parkway.
21 Q. Can you find it on the map? Here's the
22 Parkway. Here's Berkeley Township. Your
23 recollection.
24 MR. GENTILE: I am having trouble
25 finding Double Trouble Road. Do they still call

1 A. Yes.
2 Q. Okay. So you made arrangements with the
3 Reichs, then you went up to Union Carbide and
4 started making pickups again there?
5 A. Yes.
6 Q. At that point you had how many trucks?
7 A. Two, I believe.
8 Q. Okay. Did you buy a second truck?
9 A. Yes.
10 Q. Who drove that truck?
11 A. Richie Winton drove one and Pete Costello
12 drove one.
13 Q. And did you drive a third truck?
14 A. A rented truck, right.
15 Q. So you owned two trucks and rented a third
16 truck?
17 A. Right.
18 Q. Okay. Do you know where Pete Costello is
19 today?
20 A. No, I haven't seen him in probably five,
21 six years.
22 Q. Where was he the last time you saw him?
23 A. Toms River.
24 Q. Was he married?
25 A. Yeah, but divorced. I was best man at his

1 wedding. But he's been divorced since probably
2 '73, '74.
3 Q. What was his wife's name?
4 A. Oh, I don't remember.
5 Q. Okay. The last time you saw him, was he
6 working as a truck driver still?
7 A. No.
8 Q. What was he doing?
9 A. Construction, I think, carpenter.
10 Q. And where did you run into him?
11 A. Oh, when I came back from Florida, I don't
12 remember, I just ran into him one day.
13 Q. Okay. Now, you were talking about your
14 arrangements with Reich Farm. Did you basically
15 lease a piece of property from them?
16 A. Yes.
17 Q. Did you tell them you would be storing
18 drums there?
19 A. Yes.
20 Q. What was your -- what was your plan --
21 excuse me. Rephrase.
22 What did you plan to do with the drums that
23 you stored there?
24 A. Eventually move them to a dump, our own
25 dumps, you know.

1 Q. Okay. Were any of them actually dumped or
2 buried at Reich Farm?
3 A. Yeah, there was some, not too many.
4 Q. Were any of the contents of the drums
5 emptied at Reich Farm?
6 A. Very little.
7 Q. When you were picking up drums again from
8 Union Carbide after the strike, were these drums
9 full drums?
10 A. Most of them -- most of them were tar
11 drums.
12 Q. Again, about the same types of contents?
13 A. Same stuff, yes.
14 Q. About 80 percent tar?
15 A. Yeah, I would say. Asphalt.
16 Q. Did they make Asphalt there?
17 A. I guess they made Asphalt there.
18 Q. Okay. Did you ever at any time have any
19 kind of business relationship with the Asphalt
20 plant on Route 37 in Manchester Township?
21 A. Never.
22 Q. Do you know which plant I am talking about?
23 A. No, I don't know where it is but I never
24 did.
25 Q. Did you ever run into a Mr. Nicol, Tom

1 Nicol at the Rustic Acres?
2 A. I might have but I don't know.
3 Q. Did you go there with your brother?
4 A. Yeah, he hung out there once in a while.
5 Q. Okay. Now, when you had three trucks
6 operating, did each truck make two trips there a
7 day, to Union Carbide a day?
8 A. No, it was pretty rough to do it.
9 Q. Let's say the truck -- you drove the rented
10 truck?
11 A. Right.
12 Q. Okay. How many trips a day were you
13 making?
14 A. I made two.
15 Q. How about the other guys?
16 A. Usually one. They had to stop at the
17 racetrack.
18 Q. Which one?
19 A. Freehold.
20 Q. The rented truck, how many drums did that
21 hold?
22 A. About 25. I couldn't carry the weight.
23 Q. How about the second new truck you got?
24 A. About the same, 30.
25 Q. And during that time, did you deliver these

1 drums to anyplace, after the strike ended, to
2 anyplace other than Reich Farm?
3 A. No. Toms River Dumps and then Reich Farm,
4 those are the only two places.
5 Q. All right. And was there anyway that you
6 could tell whether Winton and Costello were
7 taking all the drums to Reich Farm or whether
8 they might be taking them someplace else?
9 A. They had to bring them there, they had no
10 place else to go. We had to unload the truck
11 there.
12 Q. Did you do anything to actually account for
13 them delivering the drums to Reich Farm to make
14 sure that they were actually delivered to Reich
15 Farm?
16 A. Yeah.
17 Q. What did you do?
18 A. We came back together.
19 Q. You all drove up together?
20 A. In different trucks and came back together.
21 Q. Were you ever concerned they might be
22 dumping the contents out of the drums someplace
23 and try to sell the drums on the side?
24 A. Couldn't.
25 Q. Why couldn't they?

1 A. What could they gain? They couldn't empty
2 them. What could they gain? Where would they
3 keep them? They had to go there with them at the
4 beginning, Toms River Dumps.
5 Q. You were talking earlier about the price
6 going up at Toms River Dump. And I think you
7 said originally it was \$10 a load?
8 A. Yeah. Then 20.
9 Q. What was the highest it got?
10 A. 200 a load.
11 Q. What was it right before 200, was it 50?
12 A. I think 50, yeah.
13 Q. Do you know how much of that went to Mr.
14 Thomas?
15 A. I don't know.
16 Q. Did you pay in cash or check?
17 A. Cash.
18 Q. How did all of this publicity hit when it
19 hit?
20 A. Well --
21 Q. How did it come out?
22 A. They come up to Rustic after I rented to
23 Reich Farm.
24 Q. Who's they?
25 A. Sharky and Columbo. And they said I am

1 taking bread out of their mouths. And I said
2 well? They threatened me, a match would cure all
3 your problems, we know where you're dumping. So
4 I knocked both of them out cold. That was the
5 last I ever heard from them.
6 Q. You physically --
7 A. I grabbed them in the back of the head and
8 whacked the heads together and they went out and
9 I left. About four, five days later the Township
10 come over to investigate and that was it.
11 Q. Who from the Township came over to
12 investigate?
13 A. I think some smart guy that was zoning
14 officer that took the drums out to the dumps and
15 shot them with tracer ammo to see if they would
16 blow up. It was a farce. Believe me, if I knew
17 then what I know now, it never would have
18 happened. But nobody dreamed that it was
19 pollution back then. It was just, you know --
20 Q. Is that an emergency?
21 A. No, I don't think so.
22 MR. MEDOWAY: It's Union Carbide.
23 Q. Okay. Let me just go back. The fellow
24 who, this Township official who came to Reich
25 Farm, was that Mr. O'Neil?

1 A. Could be, yeah. Could have been.
2 Q. When you say he took drums out to the dump
3 and shot them with tracer bullets, which dump,
4 Toms River Dump?
5 A. Yes, he shot at them with tracer ammo to
6 see if they would explode. And he says his boots
7 disintegrated. It was just a farce.
8 Q. The drums that were stored at Reich Farm,
9 about what percentage of the drums that were
10 stored at Reich Farm were empty at the time you
11 left them there?
12 A. Oh, I don't know. I wouldn't have the
13 slightest idea. Some of the drums we took out
14 had nothing in them so we used to stack them in a
15 stack and if I got a load, we could take them
16 into Newark and sell them.
17 Q. Did you ever sell any of those drums?
18 A. Yes.
19 Q. Where did you sell them?
20 A. Different places. Whoever paid the most.
21 Bayonne Barrel & Drum. I don't remember the
22 company's names now. But all in Newark, Bayonne,
23 that area.
24 Q. About what percentage of them do you think
25 you sold roughly?

1 A. I don't know. Maybe 20 percent. I don't
2 know, you know.
3 Q. Did you at any point have any permits for
4 the drum business?
5 A. No. There was nothing back then you
6 needed. There was no laws. Nobody ever dreamed
7 that that stuff was hazardous to the
8 environment. Back then nobody cared.
9 Q. There is some documents in this case
10 talking about you having dealings with Essex
11 Chemical Company.
12 A. Who?
13 Q. Essex Chemical Company.
14 A. Never heard of them.
15 Q. Never heard of them?
16 A. Never heard of them.
17 Q. Did all three of the trucks have some ID on
18 them indicating Nicholas Fernicola?
19 A. Two of them, we had signs on them Nick
20 Fernicola.
21 Q. Did the rented truck have a sign on it?
22 A. No.
23 Q. Other than the tar drums, can you remember
24 anything about the contents of the drums?
25 A. No. They were thinners that they used to

1 clean the machines out with. And some of them —
 2 it was nothing hazardous, no poisons, no nothing,
 3 you know.
 4 Q. When you say there was nothing hazardous,
 5 you mean they weren't labeled hazardous?
 6 (OBJECTION) MR. GENTILE: Object to the form of
 7 the question.
 8 Q. What's your basis for saying there was
 9 nothing hazardous?
 10 A. Well, there wasn't nothing hazardous. They
 11 were paint thinners and oils and tars, that was
 12 it.
 13 Q. Other than paint thinners, were there any
 14 other industrial solvents?
 15 (OBJECTION) MR. GENTILE: I object to the form of
 16 the question.
 17 A. I don't know.
 18 Q. Would you be able to tell whether they were
 19 industrial solvents or not?
 20 A. Yeah, most of the drums we never opened.
 21 Q. Were all the drums sealed?
 22 A. Yes.
 23 Q. How often did Union Carbide pay you?
 24 A. About once a week. I pressured them. I
 25 had to go to New York and get a check.

1 Q. You had to go to New York to get a check?
 2 A. Yeah, I remember I had to go to New York to
 3 pick up a couple of checks. We ran out of
 4 money. I needed money.
 5 Q. They wouldn't give you checks from Bound
 6 Brook?
 7 A. No, they were issued from, I think, New
 8 York.
 9 Q. Where in New York did you go?
 10 A. I don't know.
 11 Q. Was it New York City?
 12 A. I don't remember. I remember going up
 13 north to one of the places, I don't know if it
 14 was in New York City or outside of New York, and
 15 picked up checks a couple of times.
 16 Q. Did you ever give them an invoice?
 17 A. Yes.
 18 Q. Okay. Did you give them an invoice weekly?
 19 A. Yes, as we took them out, I signed the
 20 thing and, you know, how many drums we took out.
 21 Q. Did you retain any copies of the invoices?
 22 A. No.
 23 Q. But you did give them invoices?
 24 A. Yes, to get paid. Yes.
 25 Q. Did you ever hear of the Whiting Landfill?

1 A. No.
 2 Q. Did you ever hear of any landfill in
 3 Whiting?
 4 A. No.
 5 Q. Did you ever hear of the Ridgeway Landfill?
 6 A. No.
 7 Q. Did you ever hear of the Manchester
 8 Landfill?
 9 A. No.
 10 Q. The Ocean County Landfill?
 11 A. Well, that was where we dumped, Church
 12 Road.
 13 Q. Any landfill on Route 70 in Ocean County?
 14 A. No, never. My whole thing in the drum
 15 business lasted about five months with two, three
 16 months on strike, that was my whole in my entire
 17 life existence with anything to do with drums.
 18 Q. So I am clear, was it five months plus the
 19 three?
 20 A. I don't know. It was maybe a month before
 21 they went on strike, then two, three months and
 22 then another month.
 23 Q. Okay.
 24 A. I only hauled drums out maybe, maybe three
 25 months, maybe, probably closer to two.

1 Q. At the time the Dover Township official
 2 inspected the Reich Farm site, were you still
 3 running three trucks a day up to Bound Brook?
 4 (OBJECTION) MR. GENTILE: I object to the form of
 5 the question.
 6 A. No, because somebody, we stopped taking
 7 them out of Union Carbide just prior to that
 8 because they must have called them, Sharky and
 9 them, after I had the run-in with them, called
 10 Union Carbide and they stopped me from taking
 11 them out. So till we settled it, there was a
 12 lull in there a couple of weeks and then
 13 everything hit.
 14 Q. During those couple of weeks, you were not
 15 making any pickups at Union Carbide?
 16 A. No.
 17 Q. Were you doing anything in the drum
 18 business with anybody else?
 19 A. Nothing.
 20 Q. Did you lay off your drivers?
 21 A. Yes, my trucks were down there. In fact,
 22 when they came in, my trucks were still there
 23 with drums on them.
 24 Q. Your trucks were where?
 25 A. At Reich Farm with drums on them.

1 Q. You hadn't taken the drums off?
 2 A. No.
 3 Q. Why not?
 4 A. Just picked up the last loads from there
 5 and it stopped so we left them on the truck.
 6 Q. Did you know at the time you went to Reich
 7 Farm you weren't going to have another pickup at
 8 Union Carbide?
 9 A. Yes.
 10 Q. When you paid Costello and Winton, how were
 11 they paid?
 12 A. Cash.
 13 Q. Okay. Was there any withholding or payroll
 14 taxes taken out?
 15 A. No.
 16 Q. Now, were you prosecuted as a result of
 17 this?
 18 A. No.
 19 Q. Was any statement taken from you, any
 20 written statement?
 21 A. Yes, as I told you, they called my lawyers
 22 up and they said ask Mr. Fernicola if he wants to
 23 come in and plead guilty; if he will come in and
 24 plead guilty, we will fine him \$100 and it will
 25 be forgotten about. So I laughed at them. Then

1 When I was in the car business, I made him
 2 deliver a car to somebody up north and the
 3 racetrack got the money.
 4 Q. Make sure they pay by check.
 5 MR. CUKER: Let me just take a couple
 6 of minutes.
 7 Q. I am sorry, the person named Thomas, do you
 8 know is that person still alive today?
 9 A. I don't have the slightest idea. Probably
 10 not.
 11 Q. Have you ever heard of Ed Moherek?
 12 A. It don't ring a bell. From where?
 13 Q. From Union Carbide.
 14 A. Might have, yeah. He may have been the one
 15 that came down.
 16 Q. How about John G. Thomas, Superintendent of
 17 Public Works for Dover Township?
 18 A. That was Thomas, yeah.
 19 Q. Was there a fire at the Dover Township
 20 Landfill?
 21 A. I understand years later or something,
 22 yeah. I believe that was way after we quit there
 23 and everything. I believe.
 24 Q. It was not before?
 25 A. Maybe it was before. I don't know.

1 they called back and said ask Mr. Fernicola to
 2 plead guilty, we will fine him \$100 and we will
 3 pay the fine. I laughed at them. That was the
 4 end of it.
 5 Q. Who were your lawyers?
 6 A. Paschon & Grunin.
 7 Q. Okay. And after that, what did you start
 8 doing for a living?
 9 A. Oh, I went back in the car business, opened
 10 up a used car lot.
 11 Q. Did you your brother ever drive any of the
 12 trucks that did pickups at Union Carbide?
 13 A. No, not that I know of. I don't remember
 14 him doing it. He might have once or twice. I
 15 don't know what he was doing back then.
 16 Q. Did he ever give you any advice in terms of
 17 where to sell the empty drums that you sold?
 18 A. Yeah. Well, he knew where to sell the
 19 drums, he was in the drum business all his life,
 20 you know, with my father.
 21 Q. Did he ever actually drive the truck up to
 22 sell the drums?
 23 A. He could have. I don't know if he did. I
 24 never got paid for it. He stopped at the
 25 racetrack on his way back and blew the money.

1 Q. Okay.
 2 A. I don't remember there being a fire there.
 3 Q. Well, were you ever told that you shouldn't
 4 dump chemicals or shouldn't dump drums in the
 5 Dover Township Landfill because they could cause
 6 a fire?
 7 A. No.
 8 Q. How about Jack Farrell, does that name ring
 9 a bell at all?
 10 A. Jack Farrell, no.
 11 Q. As the guy who went to Reich Farm and maybe
 12 shot the bullets into the drums?
 13 A. Could be.
 14 Q. Do you remember ever speaking to a
 15 Detective Lieutenant Egeland from Dover Township,
 16 from Manchester Township, excuse me?
 17 A. Never, never contacted me, nobody from
 18 Manchester. Never had no dealings with
 19 Manchester.
 20 Q. How about Robert Davidson, do you remember
 21 him as someone you dealt with as an official of
 22 Dover Township?
 23 A. It don't ring a bell. They have down there
 24 on that subpoena thing for Nicol Brothers
 25 Trucking Company which never existed, nothing

1 there ever existed.
 2 Q. The two attorneys you mentioned, do you
 3 know if they're still around?
 4 A. I imagine. They were well-known attorneys
 5 in Toms River at the time. Ron Paschon and Jack
 6 Grunin, they was in real estate for years and
 7 years and years.
 8 Q. When was the last time you had dealings
 9 with them?
 10 A. When I moved to Florida, they closed on my
 11 house, '74 or '84.
 12 Q. Okay. Did you ever make a payment to the
 13 Reichs as part of a settlement with them?
 14 A. No. Paid them the rent, that's all.
 15 Q. How much was the rent, do you recall?
 16 A. I don't know. \$100 a month. Who knows
 17 back then.
 18 Q. Do you recall anything about being a party
 19 to a \$10,000 payment to the Reichs as part of a
 20 settlement with the Reichs and Union Carbide?
 21 A. No.
 22 MR. CUKER: I don't have any other
 23 questions at this time. I think the other
 24 attorneys may have some questions for you.
 25 MR. FISCHER: I don't have any

1 questions.
 2 (Examination of NICHOLAS FERNICOLA by MR.
 3 MEDOWAY:)
 4 Q. Mr. Fernicola, my name is Ellis Medoway. I
 5 am from the firm of Archer & Greiner. In this
 6 case we represent the defendants Thomas Nicol
 7 Company and Thomas Nicol Asphalt Company on Route
 8 37. I have a few questions for you. And I want
 9 to see if I can follow-up and clear up a couple
 10 of things in my head right now that I am not sure
 11 about.
 12 You returned from Idaho in 1970; correct?
 13 A. Yes.
 14 Q. Is that right?
 15 A. Thereabouts.
 16 Q. And you then began working in Trenton in
 17 some construction work?
 18 A. Before I went to Idaho, I worked in
 19 Trenton. And when we came back, we worked in
 20 Oceanport.
 21 Q. So when you came back in 1970 when you
 22 returned from Idaho, you worked in Oceanport?
 23 A. Yes.
 24 Q. Okay. Same construction company?
 25 A. Same company.

1 Q. Do you remember when in 1970 you came back?
 2 A. No.
 3 Q. Okay. In 1971, that's when you were, you
 4 had a relationship with Union Carbide, does that
 5 ring a bell?
 6 A. Could be '71 or 2, somewhere in there.
 7 Q. According to my records, looks like the
 8 summer of '71.
 9 A. Could have been. I don't know.
 10 Q. Okay. Now you're working this construction
 11 job at Oceanport. And I know you mentioned this
 12 Rustic Acres bar meeting you had with certain
 13 people. But how did you get in touch with Union
 14 Carbide, tell me how that happened?
 15 A. Jumped in my car, drove up there and met
 16 with them.
 17 Q. But what led you to go to Union Carbide?
 18 A. I heard that they needed someone to take
 19 out the drums.
 20 Q. Were you still working in the construction
 21 business?
 22 A. Yeah, but I think we were at a standstill
 23 there for like a month while the steel crew come
 24 in to sheet the whole place. We couldn't, it was
 25 a union deal so we couldn't dig or nothing. They

1 had to get the Iron Union and the Steel Workers
 2 Union in and it took them like a month to sheet
 3 so we weren't working.
 4 Q. If I understand what you're saying, you
 5 were laying pipe in 1971 --
 6 A. Right.
 7 Q. -- for the same outfit. What was the name
 8 of the outfit?
 9 A. I am trying to think of it.
 10 Q. Whatever, construction business?
 11 A. Yes.
 12 Q. And you were working in Oceanport at that
 13 time?
 14 A. Yes.
 15 Q. And you're saying there came a period where
 16 there was some sheet work that had to be laid so
 17 you were for a month --
 18 A. Month. November.
 19 Q. -- laid off or out of work?
 20 A. Out of work.
 21 Q. And what happened during that month? What
 22 communication came to you through Union Carbide?
 23 A. That's when I went up there, and within
 24 that time, and --
 25 Q. You went to Union Carbide?

1 A. Yes.
 2 Q. The Bound Brook plant?
 3 A. Right.
 4 Q. What got you there? How did you know to go
 5 to Union Carbide?
 6 A. Well, back then, I don't know who, told me
 7 about what they wanted, and I called up and they
 8 said yes, come up. And I had a meeting with them
 9 up there.
 10 Q. Did your brother Frank call you about that?
 11 A. Could have been. I don't know.
 12 Q. Somebody contacted you, you don't remember
 13 who?
 14 A. Somebody told me, not contacted me.
 15 Q. Told you what?
 16 A. Told me that you could get a contract from
 17 Union Carbide to take out their drums, they're
 18 looking for someone. And that's when I called
 19 and made an appointment and I went up there.
 20 Q. Okay.
 21 A. And I made a proposition and they took it.
 22 Q. Who did you meet with when you went to
 23 Union Carbide?
 24 A. I don't know. I really don't know.
 25 Q. Do you remember, when you went into the

1 plant, where you met in the plant, where they
 2 were unloading the drums or someplace else?
 3 A. No, I went into the front office.
 4 Q. Main office?
 5 A. Yeah, the front receptionist. Then she
 6 took me into an office.
 7 Q. You met with somebody wearing a suit?
 8 A. Yes.
 9 Q. Did you understand this person to be some
 10 kind of official with Union Carbide?
 11 A. I imagine, yes.
 12 Q. What kind of deal did you strike with Union
 13 Carbide at that time?
 14 A. So much a drum, six, \$7, whatever it was,
 15 and they wanted to come the first couple of loads
 16 to see where I dumped them. And after that, that
 17 was it. And then they drew up the contracts and
 18 they mailed them to me. Then they went on strike
 19 -
 20 Q. Hold on. Did they ask you whether you had
 21 a permit -
 22 A. No.
 23 Q. - to haul this waste?
 24 A. No.
 25 Q. Did they tell you what kind of waste they

1 wanted you to haul?
 2 A. Yes, all nonhazardous.
 3 Q. They told you about everything you're going
 4 to haul was nonhazardous?
 5 A. Right.
 6 Q. This person told you that?
 7 A. Yes, there was no poisons, no nothing, you
 8 know.
 9 Q. How did that come up?
 10 A. Because I remember years and years ago
 11 somebody dumped some poison in Newark down the
 12 sewers, and a lot of places, the chemical plants
 13 with poison couldn't get rid of it, they had to
 14 take it out of the State.
 15 Q. Did you raise this question about the
 16 hazardous or nonhazardous quality of this waste?
 17 A. They told me.
 18 Q. They brought it up themselves?
 19 A. Yes. I forget the labels back then but it
 20 was A, B, whatever it was, and these were all
 21 nonhazardous, you know.
 22 Q. You're saying you saw labels on these
 23 drums?
 24 A. Yeah, I forgot what the classification was
 25 back then, A or B or whatever, A was, the lower

1 you went was hazardous, these were right on top,
 2 As and Bs, a C was hazardous. These were an A.
 3 Q. Did you ask someone at Union Carbide are
 4 these wastes I am hauling hazardous, tell me?
 5 A. At the beginning he told me there was
 6 nothing hazardous, there was thinners, oil, there
 7 was tar. He went down the list. I had a list
 8 what we hauled.
 9 Q. You're saying this person at Union Carbide
 10 told you these were nonhazardous; right?
 11 A. Right.
 12 Q. And he just volunteered that information to
 13 you?
 14 A. Yes. When I got the contract, yes.
 15 Q. All right. And nobody from Union Carbide
 16 asked whether or not you had any special license
 17 to haul this waste?
 18 A. There was no special license back then.
 19 There was nothing back then.
 20 Q. That you knew about?
 21 A. There wasn't. There wasn't no laws back
 22 then.
 23 Q. All right.
 24 A. There was nothing. It was all after that.
 25 I probably was -

1 Q. Did anybody tell you that from Union
2 Carbide there was no need for a license?
3 A. I knew there wasn't.
4 Q. Listen to my question. Did someone from
5 Union Carbide say to you —
6 A. No.
7 Q. — Mr. Fernicola, you don't need a license
8 for this?
9 A. No.
10 Q. Did somebody from Union Carbide say to you
11 you need a license for this?
12 A. No.
13 Q. Did you fill out an application with Union
14 Carbide?
15 A. I don't know what you mean by an
16 application.
17 Q. Was there an application where you put your
18 name down, your driver's license down and any
19 other information?
20 A. Probably. I don't remember.
21 Q. You don't have a recollection?
22 A. No.
23 Q. Okay. Now, do you recall when it was, and
24 I say it was 1971, before the summer of 1971?
25 A. It's possible.

1 Q. And when you got the job, you bought one
2 truck first?
3 A. Yes.
4 Q. How soon after that did you buy your second
5 truck?
6 A. After they come off the strike.
7 Q. Okay. Now, when did that strike take
8 place, before you first delivered any drums?
9 A. No.
10 Q. Or did you deliver some drums and then the
11 strike took place?
12 A. We worked out of there about three weeks to
13 a month.
14 Q. Before the strike?
15 A. Right.
16 Q. For the three weeks to a month when you
17 were hauling these drums, how many trucks did you
18 have during that period?
19 A. One.
20 Q. Who drove that truck?
21 A. Me.
22 Q. Did you have any employees at that point?
23 A. Pete Costello once in a while came with me.
24 Q. How about Mr. Winton?
25 A. No.

1 Q. But you don't have a firm recollection of
2 when this all happened?
3 A. No.
4 Q. After you had this meeting with this person
5 in Union Carbide, did you meet with anybody else
6 up there?
7 A. No.
8 Q. You had one meeting and the next thing
9 you're now picking up drums from that plant;
10 correct?
11 A. They notified me a week, two weeks, a
12 month, I don't remember when, later.
13 Q. Shortly thereafter?
14 A. Right. Then I went out and bought a truck.
15 Q. Did they tell you you're going to need a
16 truck for this?
17 A. I knew I was going to need a truck for
18 this.
19 Q. Did you tell them you had a truck?
20 A. Yes.
21 Q. You didn't have a truck yet?
22 A. Yes.
23 Q. You told them you had something and you
24 didn't to get the job?
25 A. Yes.

1 Q. Just Costello?
2 A. Right.
3 Q. Did Costello drive with you or did he
4 sometimes go on his own?
5 A. He went with me.
6 Q. For company?
7 A. Yeah, company, help.
8 Q. Okay. Now, for those three weeks,
9 whatever, where did you take those drums?
10 A. To Toms River Dumps.
11 Q. All right. Not to Reich Farm?
12 A. No.
13 Q. To Toms River Dumps?
14 A. Right.
15 Q. You're saying more than one dump?
16 A. The dumps, Church Road, Toms River.
17 Q. One dump or more than one dump?
18 A. One dump.
19 Q. Where in Toms River?
20 A. Church Road.
21 Q. Can you show us on the map?
22 A. Church Road right by the Parkway. It was
23 the Ocean County Landfill, I guess.
24 Q. Can you point to it, Mr. Fernicola?
25 A. I can't read that map.

1 MR. GENTILE: This is Church Road.
 2 A. That's Church Road. Here's the Parkway.
 3 The dumps was right in here.
 4 Q. Could you draw a little circle around it?
 5 MR. CUKER: For the record, it's Block
 6 N 7.
 7 Q. Draw a circle.
 8 A. I think this is where it was, right in
 9 here.
 10 Q. So where you marked a circle on this map,
 11 that's where you, for the first few weeks after
 12 you had this contract with Union Carbide, took
 13 these drums?
 14 A. Right.
 15 Q. For disposal?
 16 A. Yes.
 17 Q. You indicated when you took the drums
 18 there, you had to pay somebody?
 19 A. Yup.
 20 Q. Who were you paying?
 21 A. Whoever was there. Columbo, Sharky,
 22 whoever was there running the machine in the
 23 dumps.
 24 Q. Okay. And how much did you pay him for
 25 these three weeks?

1 A. Three weeks, a month maybe.
 2 Q. Maybe four weeks?
 3 A. Yes.
 4 Q. And five days a week you were doing this?
 5 A. I think four days. I think Fridays we
 6 didn't take nothing out of there, if I remember
 7 right. I don't remember why.
 8 Q. So four days?
 9 A. One day we couldn't get in there. I don't
 10 know why. I don't remember now. It seems to me
 11 I remember not going.
 12 Q. So you were taking several hundred drums a
 13 week?
 14 A. Okay. Probably 60 -- yeah, a couple
 15 hundred drums a week.
 16 Q. Now, a strike took place at the Union
 17 Carbide plant?
 18 A. Yes.
 19 Q. Which then prevented you from picking up
 20 these drums, is that what you're saying?
 21 A. Right.
 22 Q. And when that strike ended, did you
 23 continue to haul drums from Union Carbide?
 24 A. Right.
 25 Q. And it's the Bound Brook plant we are

1 A. First it was \$10 a load.
 2 Q. Okay. And for these three weeks they
 3 remained \$10 a load?
 4 A. No, they raised it to 20.
 5 Q. At the end of the three weeks, was it still
 6 20?
 7 A. Yeah, I believe so.
 8 Q. Okay. Did you need a license of any kind
 9 to take these drums and bring it into this dump?
 10 A. No.
 11 Q. Nobody asked for a license when you came in
 12 there?
 13 A. No.
 14 Q. Did anybody, did Sharky or anybody else ask
 15 you what you were delivering there?
 16 A. Nobody did.
 17 Q. Did they bother to check those drums?
 18 A. No.
 19 Q. The truck you had taking the drums, how
 20 many drums could you fit on this?
 21 A. Twenty-eight, 30.
 22 Q. You indicated before you took two load a
 23 day. That's about 60 drums a day --
 24 A. Right.
 25 Q. -- during this three-week period?

1 talking about?
 2 A. Right.
 3 Q. Now, when did you buy your second truck?
 4 A. Probably about two weeks after the strike
 5 ended. The third or fourth day I had to go out
 6 and rent a truck because we couldn't get them out
 7 of there.
 8 Q. Why did you rent the truck?
 9 A. Because they were jammed with drums, I
 10 couldn't do it with one truck.
 11 Q. They had more drums then they had before?
 12 A. Right.
 13 Q. How many drums -- strike that.
 14 You then had rented a truck and you had
 15 your purchased truck and you were now making
 16 these pickups with those two trucks?
 17 A. Right.
 18 Q. For how long a period did you use just
 19 those two trucks?
 20 A. Could have been a week, two weeks. I don't
 21 remember back then.
 22 Q. How many drums did, the one you rented, how
 23 many drums did that hold?
 24 A. Twenty, 25.
 25 Q. Okay. And how many loads were you taking a

1 week with these two trucks, a day, excuse me?
 2 A. Two loads a day.
 3 Q. About 100 drums a day?
 4 A. Yeah, I would say.
 5 Q. About these 100 drums approximately a day,
 6 you were then taking -- where were you taking
 7 these drums?
 8 A. Toms River Dumps.
 9 Q. Same place on Church Road?
 10 A. Right.
 11 Q. You keep saying Toms River Dumps. Is it
 12 Toms River Dump? You don't mean more than one?
 13 A. No.
 14 Q. And then you bought your second truck?
 15 A. Right.
 16 Q. So now you're using three trucks?
 17 A. Right.
 18 Q. And the second truck you bought, how many
 19 drums could you take on that?
 20 A. About the same, 25, 30.
 21 Q. When did you start to take the drums to
 22 Reich Farm?
 23 A. Somewhere after that, five, six weeks,
 24 seven weeks, I don't know. They approached me,
 25 they wanted \$200 a load, and I don't make 200 a

1 whatsoever.
 2 Q. Do you know how many drums in all you took
 3 there?
 4 A. I don't have the slightest idea.
 5 Q. The records seem to indicate about 5,000
 6 drums.
 7 A. I think the records are a little off.
 8 That's besides the point. They have been off on
 9 everything. Whatever it is. If it's 5,000, it's
 10 5,000.
 11 Q. You took several loads there?
 12 A. Oh, yeah. It went on for weeks.
 13 Q. When you took the drums to Reich Farm, did
 14 you empty the drums?
 15 A. No. Very few. Some might have ran out
 16 falling off the truck but we had them mostly
 17 stacked there.
 18 Q. Did you empty some of them?
 19 A. No, broke up and leak out. Yeah. But we
 20 just stored it. We had them all stacked up
 21 there, stored them.
 22 Q. Do you have a recollection of emptying any
 23 of the drums and selling them someplace else?
 24 A. We could have. Yeah, we could have.
 25 Q. How about Ocean County dumps that you

1 load, so I start bringing it to Reich Farm.
 2 Q. How did that all occur?
 3 A. I went to the dumps and they said they want
 4 more money. So I said how much more. And he
 5 told me. I said I can't pay it.
 6 Q. You're looking for alternate sites to take
 7 this waste, another site?
 8 A. Yeah. Maybe a week until I found the
 9 ground.
 10 Q. How did you find out about Reich Farm?
 11 A. Again, somebody told me and I approached
 12 them and rented it and that was about the size of
 13 it really.
 14 Q. Did you meet with Mr. Reich?
 15 A. Yeah, he lived right there.
 16 Q. The owner of the property?
 17 A. Yeah.
 18 Q. Did you know him?
 19 A. No, a friend of mine knew him and
 20 introduced me to him. I don't remember who back
 21 then now. I met with him and he rented me the
 22 piece of property in the back.
 23 Q. What period of time did you take Union
 24 Carbide drums to the Reich Farm?
 25 A. Three weeks, a month. No idea. No idea

1 referred to before on Church Road, did you empty
 2 any of the drums there?
 3 A. Yeah, we could have, empty some half full,
 4 quarter of the way full.
 5 Q. Did you sell some of the drums that were
 6 empty afterwards?
 7 A. Yeah, we could have taken them back.
 8 Q. Did you work with your brother Frank in
 9 that connection?
 10 A. No, not really. He may have made a couple
 11 of loads for me to the City with empty drums.
 12 Q. Union Carbide drums?
 13 A. Yeah, but, like I said, I don't remember
 14 now what he was doing back then.
 15 Q. Besides these two sites, the Reich Farm
 16 which was on Lakewood Road --
 17 A. Route 9.
 18 Q. -- Route 9 and the Church Road, Ocean
 19 County Dump --
 20 A. Right.
 21 Q. -- did you take --
 22 MR. GENTILE: Excuse me, Toms River
 23 Dumps.
 24 Q. However you're referring to it. But it's
 25 on Church Road?

1 A. Right.
 2 Q. Besides these two sites, did you take Union
 3 Carbide drums anywhere else —
 4 A. Never.
 5 Q. — for disposal?
 6 A. Never.
 7 Q. Did you ever hear of a place called Sambol?
 8 A. Sambol was a construction outfit.
 9 Q. Do you remember where that was located?
 10 A. No.
 11 Q. Do you know where North Maple Street is off
 12 of Route 9?
 13 A. No.
 14 Q. Did you ever have a recollection of taking
 15 any drum to Sambol's property?
 16 A. Never. Don't know them.
 17 Q. You do recollect that Sambol's facility is
 18 a general contracting firm and they have a
 19 maintenance yard there, are you familiar with
 20 that at all?
 21 A. No, not at all.
 22 Q. Did you know a Mr. Kelly from Union
 23 Carbide?
 24 A. I don't ring a bell. Could have.
 25 Q. It's your testimony that you never took

1 facility —
 2 A. He's a liar.
 3 Q. — he's not telling the truth?
 4 A. He's a liar.
 5 Q. But you're telling the truth?
 6 A. Give me a lie detector. I took two places
 7 my whole life, that was my whole entire dealings
 8 in the drum business or anything.
 9 Q. Okay. You had two employees, one was Mr.
 10 Costello and the other was Mr. Winton; correct?
 11 A. Yes.
 12 Q. Now, Richie Winton —
 13 A. Right.
 14 Q. — when did he begin to work for you?
 15 A. Oh, I don't know, probably when they come
 16 off strike.
 17 Q. Okay. He worked for you —
 18 A. In fact, he started out with me fixing,
 19 repairing my engines on the trucks, he was a
 20 mechanic.
 21 Q. You testified before, in response to Mr.
 22 Cuker's question, you sort of had a convoy, you
 23 and Pete Costello and Richie Winton would drive
 24 the three trucks up to the Union Carbide Bound
 25 Brook facility and take the drums back into the

1 drums to Sambol's property?
 2 A. Never.
 3 Q. If I told you —
 4 A. I don't know where it was.
 5 Q. If I told you that Union Carbide drums were
 6 actually found there and had to be removed from
 7 there and that an official from Union Carbide,
 8 Bound Brook facility came down and reclaimed
 9 those drums, and that Mr. O'Neil, who's a
 10 Township official in Dover, this person said it
 11 was your taking of those drums there, that
 12 doesn't ring a bell to you at all?
 13 A. Never took a drum there. If any drums were
 14 there after the Township found them, they dumped
 15 them there.
 16 Q. You're saying if Union Carbide drums were
 17 found on Sambol's property, Township officials
 18 put them there?
 19 A. I dumped in two places, Toms River Dumps
 20 and the Reich Farm in my entire life. And I will
 21 take a lie detector test on the only two places I
 22 ever dumped anything in my life.
 23 Q. If a Township official, Dover Township
 24 official gave testimony that you also took waste,
 25 chemical waste, Union Carbide drums to the Sambol

1 Toms River area.
 2 A. Yes.
 3 Q. So Richie Winton drove one of those trucks;
 4 right?
 5 A. Right. Occasionally, yes.
 6 Q. Did Richie Winton help you take the drums
 7 off these trucks and place them at the Reich
 8 Farm?
 9 A. Yes.
 10 Q. And did he do the same with the whatever
 11 landfill is on Church Road?
 12 A. I don't know if Richie was with me when we
 13 went to the dumps. I think the first thing is he
 14 rebuilt one of my engines for me on my truck,
 15 that's how I got involved with him, I believe
 16 that's while we were dumping at the Reich Farm.
 17 I don't really remember Richie going to the dumps
 18 with us. But he could have, you know, it's a
 19 long time ago. I think it was just me and Pete
 20 at the dumps.
 21 Q. Did you ever hear of the Whiting Landfill?
 22 A. No, never.
 23 Q. Do you recall having a conversation with a
 24 police officer from Manchester Township by the
 25 name of Bruce Egeland —

1 A. Never, nobody from Manchester.
 2 Q. — around this time?
 3 A. No.
 4 Q. He says in an affidavit that you were
 5 caught picking up or attempting to dump 15 or
 6 more drums at the Whiting Landfill.
 7 A. Not me.
 8 Q. This officer in his certification is lying?
 9 A. Somebody else. Ain't Nick Fernicola.
 10 Q. Okay. He said also that you admitted to
 11 him that you were responsible for a recent
 12 explosion and fire at the Dover Township
 13 Landfill.
 14 A. Not me.
 15 Q. You don't recall that conversation?
 16 A. Not me.
 17 (OBJECTION) MR. GENTILE: I might object at this
 18 point. I think the testimony from Mr. Egeland
 19 was unclear whether it was Nicholas or Frank
 20 Fernicola referred to in that certification.
 21 And, you know, the record will reflect what it
 22 will reflect. If you review the transcript of
 23 the deposition, I think that's what you will
 24 find.
 25 MR. MEDOWAY: That's fine. The

1 witness can say what he did or didn't.
 2 A. I think my brother got caught there or
 3 someplace else or somewhere along the line.
 4 Q. What do you mean he was caught?
 5 A. Dumping somewhere. And they were, if I
 6 remember right, they were sodium, when water hit
 7 them, they blew up, if I remember right. I never
 8 ever was contacted by anybody for anything with,
 9 over this thing. The only time is when the
 10 Township called me to plead guilty, that was the
 11 only thing. I went to one hearing from them.
 12 Q. Do you know where Lakehurst is?
 13 A. Yes.
 14 Q. Did you ever hear of the Manchester
 15 Township Landfill?
 16 A. No, I don't know where that is.
 17 Q. But your testimony today is you didn't take
 18 any Union Carbide drums to that —
 19 A. Two places.
 20 Q. — to that site?
 21 A. Never, no. Toms River Dumps and the Reich
 22 Farm, that's it, amen, entire.
 23 Q. Do you know where Pine Lake Park is?
 24 A. I know where Pine Lake Park is.
 25 Q. Did you ever take any Union Carbide drums

1 there?
 2 A. Never.
 3 Q. If somebody said that you or your brother
 4 took Union Carbide drums there, they wouldn't be
 5 telling the truth according to you?
 6 A. No, I know I never took them there.
 7 Can I ask a question? Ain't there a
 8 statute of limitation on this stuff? Seriously.
 9 It seems to me it's a joke. It really does. You
 10 could kill somebody and get off for less money.
 11 MR. GENTILE: Good point.
 12 A. I mean this was in 1972 or 1, it's, you
 13 know, they couldn't do nothing back then.
 14 Q. Just so I am clear, the first few times you
 15 went to Toms River to dispose of the Union
 16 Carbide drums, did an official or someone from
 17 Union Carbide come with you to see where you were
 18 taking it?
 19 A. Right. He followed us in his car, watched
 20 us unload.
 21 Q. Where did you unload those?
 22 A. Right at the dumps.
 23 Q. Okay. Toms River?
 24 A. Toms River Dumps, Church Road.
 25 Q. Church Road. He witnessed that and he

1 thought that was okay?
 2 A. Yes.
 3 Q. Did he ever come with you to Reich Farm?
 4 A. They knew nothing about Reich Farm until
 5 somebody called up, and, you know, it was the
 6 first they knew about it. They knew nothing
 7 about Reich Farm. That was entirely my doing.
 8 MR. MEDOWAY: I think I am finished.
 9 I am going to take a look.
 10 MR. CUKER: While you're looking, can
 11 I?
 12 MR. GENTILE: Sure.
 13 MR. MEDOWAY: Let me follow-up with
 14 this. I am sorry.
 15 MR. CUKER: Okay.
 16 BY MR. MEDOWAY:
 17 Q. Did you ever hear of the Old Manchester
 18 Township Landfill?
 19 A. No.
 20 Q. The Lakewood Township Landfill?
 21 A. No.
 22 Q. The Dover Township Landfill?
 23 A. Well, I don't know if that's on Church
 24 Road. I heard of the one on Church Road,
 25 whatever the name of that was, that's it.

1 Q. And, again, it's your testimony you didn't
2 take waste to any of those sites other than the
3 two you mentioned?
4 A. Yeah.
5 MR. MEDOWAY: Okay.
6 (Examination of NICHOLAS FERNICOLA by MR. CUKER:)
7 Q. You didn't tell the Union Carbide people
8 you were having this problem with the Toms River
9 Dump?
10 A. No.
11 Q. Why didn't you tell them?
12 A. Because it would have ended.
13 Q. They would have stopped dealing with you?
14 A. Without a doubt.
15 Q. What made you think that?
16 A. They would have, I knew that. The whole
17 idea of me getting them as an account to begin
18 with, I had a landfill to dump at.
19 Q. When you got them as an account, did they
20 tell you where they had, how they had disposed of
21 their drums before you were doing it?
22 A. No.
23 Q. Did --
24 A. Somebody up north was taking them and I
25 guess he lost his landfill and that's why it was

1 up. The reason we drew out the thing, they sent
2 me a contract, then they went on strike, I never
3 signed the contract and sent it back to them,
4 they were on strike that period. Then all of a
5 sudden they called me to come in and take drums.
6 We were so busy I never bothered giving them the
7 contract back. I never had a contract with Union
8 Carbide.
9 Q. What happened to the contract?
10 A. Who knows.
11 Q. Did they say whether -- are you the one who
12 suggested the Toms River Dump to them?
13 A. Yes.
14 Q. Did they say, indicate to you that they
15 knew anything about dump sites in Ocean County?
16 A. No, there was -- basically there was no
17 laws against anything whatsoever in this nature
18 back then.
19 Q. Okay.
20 A. You're going back, what, 30 years, who knew
21 anything. We were all dumb and, you know.
22 Q. You said they gave you a list of wastes
23 that you were taking?
24 A. Back then I don't know.
25 Q. Was it typewritten or handwritten?

1 A. It was a typewritten pamphlet with all the
2 classifications of everything. And I was up on
3 the top of the hazardous list what we were
4 hauling, it went down the line, like I said, A to
5 Z. I was up on A.
6 Q. What was the size of the pamphlet?
7 A. I don't know.
8 Q. 8 x 11?
9 A. I don't remember. Small. I don't remember
10 back then.
11 Q. Do you know how many pages approximately?
12 A. I don't know.
13 Q. It was more than just a single page?
14 A. Yeah, it was a breakdown, you know, of
15 everything but I don't remember what.
16 Q. When you had one truck, where was the one
17 truck stored when you only had one truck?
18 MR. GENTILE: Stored when it wasn't
19 used?
20 MR. CUKER: Yes.
21 A. I probably drove it home.
22 Q. And you said somebody did maintenance work
23 on that truck?
24 A. Yes.
25 Q. Costello? Richie Winton?

1 A. Yes.
2 Q. Where did he do the maintenance work on the
3 truck?
4 A. I had it up by the Rustic in that empty
5 field. We done an engine job up there on a
6 truck.
7 Q. Okay. Now, when you got more than one
8 truck, where were the trucks stored?
9 A. At Reich Farm.
10 Q. Where was the maintenance work done on
11 them?
12 A. Right at Reich Farm.
13 Q. You didn't -- did you do any maintenance
14 work yourself on the truck?
15 A. Yeah, a little bit.
16 Q. Do you know if Mr. and Mrs. Reich are still
17 alive?
18 A. I don't know. I know he collected a
19 fortune. He's probably retired somewhere.
20 Q. Collected a fortune doing what?
21 A. I guess from all of that stuff there. I
22 guess Union Carbide must have paid him a big
23 chunk of money. From what I hear, everybody made
24 money but me. I am the only one that lost money
25 and I started it. I lost the trucks. I lost

1 everything.
 2 Q. How did you lose the trucks?
 3 A. The Township took them.
 4 Q. Why couldn't you get them back?
 5 A. I never tried. They had drums on them. I
 6 had no place to put the drums. I let it go.
 7 Q. Physically when you were stacking drums at
 8 the Reich Farm, how did you get the drums off the
 9 truck?
 10 A. Roll them off.
 11 Q. And then straighten them out?
 12 A. Yes.
 13 Q. Rolled them down a ramp?
 14 A. No, roll them off.
 15 Q. Occasionally they might split open?
 16 A. Occasionally. Rare.
 17 (Examination of NICHOLAS FERNICOLA by MR.
 18 MEDOWAY:)
 19 Q. Rustic Acres bar, in relation is it
 20 somewhat close of Pine Lake Park?
 21 A. Well, close but not real close.
 22 Q. Did you ever drive your truck in there when
 23 it was loaded with drums?
 24 A. I don't remember.
 25 Q. Might have?

1 Parkway.
 2 A. 18 to 9, 9 to Church Road.
 3 Q. Make a left on Church Road?
 4 A. Right to the dumps.
 5 Q. And to Reich Farm?
 6 A. Right on 9, kept going straight.
 7 MR. CUKER: That's all.
 8 (Examination of NICHOLAS FERNICOLA by MR.
 9 GENTILE:)
 10 Q. Mr. Fernicola, I have one or two questions.
 11 When you're taking these drums to the Toms
 12 River Dumps, were you under the impression that
 13 there were other drums being dumped at that dump
 14 at that time?
 15 A. Of course.
 16 Q. How did you know that?
 17 A. I seen the trucks there every day we were
 18 there, Lakehurst Naval Base, Ciba's. Ciba was
 19 there 20 times a day. Not a time I went in when
 20 Ciba's trucks weren't there, never ever, ever. I
 21 told them back then. Nobody would listen to me.
 22 Q. So there were other trucks carrying drums
 23 from other locations at the same time that you
 24 were at the Toms River Dump?
 25 A. Right.

1 A. No, I don't think so.
 2 Q. You don't have any recollection of ever
 3 driving to the Rustic Acres bar with drums on
 4 your truck?
 5 A. We might have but I doubt it. You're still
 6 trying to get me through that Manchester area
 7 which I never was. I never dumped and I never
 8 will dump there, amen. If any truck was parked
 9 in Pine Lake Park, I never dumped there, which it
 10 never was. You could get me up to the area,
 11 you're barking up the wrong tree, I never ever
 12 dumped.
 13 Q. Did you ever have drums on your truck when
 14 you were at Rustic Acres?
 15 A. Possibly.
 16 (Examination of NICHOLAS FERNICOLA by MR. CUKER:)
 17 Q. Where is the Rustic Acres bar located?
 18 A. Route 27.
 19 Q. What route do you take from Bound Brook to
 20 the Toms River Landfill?
 21 A. 18 to 9, 9 to the landfill.
 22 Q. Okay. Did you drive down the Garden State
 23 Parkway?
 24 A. No.
 25 Q. Trucks are not allowed on the Garden State

1 Q. And aside from the, you said Lakehurst
 2 Naval Station -
 3 A. Right, they were constantly there.
 4 Q. And what other companies?
 5 A. Ciba. Toms River Chemical were constantly
 6 there.
 7 Q. Any other companies that you know of?
 8 A. No.
 9 Q. Was it your impression that all of these
 10 other trucks were also paying money to the
 11 operator or -
 12 A. Yes.
 13 Q. - the managers of that landfill?
 14 A. Without a doubt.
 15 Q. And how do you know that? Did the managers
 16 tell you that that's -
 17 A. No, but it was a known fact. I couldn't
 18 dump without paying. I had to pay for every
 19 load. I am sure they did.
 20 MR. GENTILE: Nothing further.
 21 A. Toms River Chemical truck pulled in, the
 22 machine was right there, he dumped and the
 23 machine covered it right up, you know.
 24 MR. GENTILE: Thank you very much.
 25 MR. CUKER: Mr. Fernicola, you have

1 the right to read and sign. If you want to get
2 the transcript to read it and sign it, you have
3 the right to do that. You're not required to do
4 that.

5 THE WITNESS: Well, I told the truth.
6 I told it the way it is. And you asked me before
7 about a lawyer, I don't think I need one. I
8 didn't do nothing. Somebody has to prove that I
9 did.

10 MR. CUKER: Thank you.
11 (Deposition concluded 12:00 p.m.)
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1 CERTIFICATE
2

3 I, LISA MARCUS, a Notary Public, RFR and
4 Certified Shorthand Reporter of the State of New
5 Jersey, do hereby certify that prior to the
6 commencement of the examination, NICHOLAS
7 FERNICOLA, was duly sworn by me to testify the
8 truth, the whole truth, and nothing but the
9 truth.

10 I DO FURTHER CERTIFY that the foregoing is
11 a true and accurate transcript of the testimony
12 as taken stenographically by and before me at the
13 time, place, and on the date hereinbefore set
14 forth, to the best of my ability.

15 I DO FURTHER CERTIFY that I am neither a
16 relative nor employee nor attorney nor counsel of
17 any of the parties to this action, and that I am
18 neither a relative nor employee of such attorney
19 or counsel, and that I am not financially
20 interested in the action.

21
22 LISA MARCUS, C.S.R.
23 Notary Public, State of New Jersey
24 My Commission Expires November 17, 1999
25 Certificate No. X101492
Date: